



July 21, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Written Ex Parte Communication, MB Docket Nos. 14-50, 09-182, 07-294

Dear Ms. Dortch:

Although the Commission determined more than a decade ago that the print newspaper rule no longer serves the public interest,¹ an FCC fact sheet reports that the broadcast ownership order circulating for vote would make no serious modifications to the rule.² In light of this, the National Association of Broadcasters (NAB) is filing for the record the attached information regarding the plight of print newspapers for the Commission's consideration.³ The attached

¹ See *Prometheus Radio Project v. FCC*, Nos. 15-3863, 15-3864, 15-3865 & 15-3866, at 38 (3d Cir. May 25, 2016) (*Prometheus III*) ("[T]he 1975 [cross-ownership] ban remains in effect to this day even though the FCC determined more than a decade ago that it is no longer in the public interest. This has come at significant expense to parties that would be able, under some of the less restrictive options being considered by the Commission, to engage in profitable combinations.").

² FCC, *Fact Sheet: Updating Media Ownership Rules in the Public Interest* (rel. Jun. 27, 2016).

³ Since July 6, NAB has filed various articles discussing the challenges faced by print newspapers and the public's increasing reliance on non-print outlets for news and information. See NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 6, 2016) at Attachment, David Glance, "The story of the nosebleed decline of the newspaper industry told in pictures," *The Conversation* (June 5, 2016), available at: <http://theconversation.com/the-story-of-the-nosebleed-decline-of-the-newspaper-industry-told-in-pictures-60530>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 7, 2016) at Attachment, Noah Kulwin, "Jeff Bezos is saving the Washington Post, but he won't be able to save newspapers," *recode* (June 28, 2016) available at: <http://www.recode.net/2016/6/28/12050416/jeff-bezos-saving-washington-post-but-not-newspapers>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 8, 2016) at Attachment, Erik Sass, "Print Ad Declines: Newspaper, Magazine Revs Fall Again," *Publishers Daily, TheDailyBlog*, (June 27, 2016), available at: <http://www.mediapost.com/publications/article/279073/printaddeclinesnewspapermagazinerevsfalla.html?print>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 11, 2016) at

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op-ed discusses how the Commission's rules "restrict the capacity of small and medium news organizations to attract capital," and hinder the ability of local broadcast and print outlets to compete with "internet giants such as Facebook and Google [that] collectively command more than 60 percent of the digital advertising market."⁴

To the extent that Commission's rationale for restricting print newspaper ownership relates to viewpoint diversity or independent "voices," NAB notes that a newspaper that has closed its doors can no longer provide a viewpoint or serve as a "voice." Retaining a rule that deters investment by broadcasters in the struggling print newspaper industry certainly cannot serve the public interest. Rather, the only result that can rationally be expected from the continued prohibition is to hasten the demise of print newspapers.

Attachment, Athena Cao, "Newspapers' woes linger as digital ad spending, cable network revenues rise," USA Today, (June 15, 2016), available at: <http://www.usatoday.com/story/money/2016/06/15/news-media-yahoo-google-twitter-facebook-verizon-tv/85937176/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 12, 2016) at Attachment, Joshua Benton, "Tampa just lost a daily newspaper; is this the continuation of an old trend or the start of a new one?," NiemanLab, (May 4, 2016), available at: <http://www.niemanlab.org/2016/05/tampa-just-lost-a-daily-newspaper-is-this-the-continuation-of-an-old-trend-or-the-start-of-a-new-one/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 13, 2016) at Attachment, Nick Madigan, "An Abrupt End to The Tampa Tribune After a Blow Delivered by Its Rival," The New York Times, (May 20, 2016) available at: <http://nyti.ms/256WgNS>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 14, 2016) at Attachment, Patrick Seitz, "Facebook, Google Cash in on Ads as News Media Firms Struggle," Investor's Business Daily (June 15, 2016) available at: <http://www.investors.com/news/technology/click/facebook-google-cash-in-on-ads-as-news-media-firms-struggle/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 15, 2016) at Attachment, Margaret Sullivan, "Face it, Facebook. You're in the News Business," Washington Post (July 10, 2016), available at: https://www.washingtonpost.com/lifestyle/style/face-it-facebook-youre-in-the-news-business/2016/07/10/cc53cd70-451a-11e6-bc99-7d269f8719b1_story.html ("With the advent of live-streaming options — Facebook Live and Periscope, primarily — their already huge influence in the news universe has taken another stunning leap."); NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 18, 2016) at Attachment, Benny Evangelista, "Americans turning to mobile phones for news, Pew study shows," SFGate.com (July 7, 2016), available at: <http://www.sfgate.com/business/article/Americans-turning-to-mobile-phones-for-news-Pew-8344673.php>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 19, 2016) at Attachment, Dan Tynan, "Democracy in Action on Twitter's Live Stream," Consumer Reports (July 16, 2016), available at: <http://www.consumerreports.org/phones-mobile-devices/watch-the-convention-coverage-on-twitters-live-stream/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 20, 2016) at Attachment, Dan Kennedy, "Print Is Dying, Digital Is No Savior: The Long, Ugly Decline of The Newspaper Business Continues Apace," WGBH News, (January 26, 2016), available at: <http://news.wgbh.org/2016/01/26/local-news/print-dying-digital-no-savior-long-ugly-decline-newspaper-business-continues>.

⁴ David Chavern, "Commentary: FCC Rule Limits Newspapers' Access to Capital, Growth," Philly.com (July 18, 2016), available at: <http://www.philly.com/philly/opinion/20160718 Commentaty FCC rule limits newspapers access to capital growth.html> (attached hereto) (David Chavern is the President and CEO of the Newspaper Association of America).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan
General Counsel and Executive Vice President
Legal and Regulatory Affairs

Attachment

Commentary: FCC rule limits newspapers' access to capital, growth

Updated: July 18, 2016 — 3:01 AM EDT



By David Chavern

At the end of June, the head of the Federal Communications Commission announced a proposal that would keep in place an absolute ban that prohibits investors from owning both a daily newspaper and a television or radio station in the same market.

Established more than 40 years ago, in 1975, this ban on media cross-ownership seemed to make sense at the time. Those were the days of gasoline rationing, bell bottoms, and offices buzzing with the rat-a-tat-tat of the typewriter. And the media landscape in a local market was essentially limited to three television stations, a couple of newspapers, and several radio stations. It was reasonable then for the FCC to be concerned that one owner would control all of the news and editorial viewpoints in a community.

A few things have changed since then: the advent of straight-leg jeans (several times), punk rock (several times), and, oh yes, that thing called the "internet."

In 2016, halfway through the second decade of the 21st century, it is absolutely unconscionable that the expert federal agency for our nation's communications policy wants to hang on to this ban that is restricting investments in local journalism.

Given the explosion of media in the marketplace, with magazines, newspapers, television, radio, cable TV, satellite TV, satellite radio, and, of course, internet search and distribution platforms, there are no longer any barriers to entry into the dissemination of news, opinions, entertainment, and other information.

At a time when the business models of news organizations are extremely challenged, the FCC is making it *more* difficult to attract needed investment and develop organizations with the scale and scope needed to survive.

The FCC claims to want to protect the existence of minority voices in the news business, but instead, it is doing everything in its power to restrict the capacity of small and medium news organizations to attract capital.

As internet giants such as Facebook and Google aggregate journalism and collectively command more than 60 percent of the digital advertising market, the FCC is preventing local media - which do most of the original reporting on our communities - from scaling operations to more effectively compete for disaggregated advertising revenue.

Some people claim that newspapers are dying, while the FCC clings to the idea that they are monopolists. Newspapers are not dying, but the one thing anyone should be quite clear on is that they aren't monopolists!

In 1996, Congress directed the FCC to conduct a comprehensive review of its media regulations every four years and to "repeal or modify any regulation that it determines to be no longer in the public interest." In short, Congress mandated that media ownership regulations reflect today's media.

How is it that the FCC can approve AT&T's acquisition of DirecTV, as it did last year, but continue to prohibit an owner of a local broadcast station with resources and a commitment to journalism from investing in a local newspaper?

Limiting newspapers' access to investment and growth in today's climate just does not make sense. But then again, not much in Washington makes sense these days.

David Chavern is president and CEO of the Newspaper Association of America (www.naa.org).



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